

House Study Bill 637 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ANDERSON)

A BILL FOR

1 An Act creating medical parole for certain persons committed to
2 the custody of the department of corrections, and including
3 effective date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

MEDICAL PAROLE

1
2
3 Section 1. NEW SECTION. 217.13A Assistance for persons on
4 medical parole.

5 1. If a person has been released on medical parole pursuant
6 to section 906.20 and applies for public assistance, including
7 medical assistance, the department of corrections shall forward
8 the application for assistance to the department of human
9 services, and advise the board of parole that an application
10 for assistance has been made.

11 2. The department of human services shall, within sixty days
12 of receipt of a medical parolee's application for assistance,
13 determine the eligibility of the person for general assistance,
14 public assistance, medical assistance, or any other department
15 or federal health care assistance.

16 3. If a person is released on medical parole and is in
17 need of public assistance, including medical assistance,
18 the department of human services is responsible for the
19 administrative costs of the initial and any subsequent
20 eligibility determination and for the costs of any public
21 assistance, including medical assistance, following a person's
22 release on medical parole for as long as the person is
23 eligible.

24 4. The department of corrections and the department of human
25 services shall jointly request proposals from public or private
26 vendors to provide contract services for persons released on
27 medical parole.

28 Sec. 2. NEW SECTION. 906.20 Medical parole.

29 1. A person committed to the custody of the director of
30 the department of corrections including offenders serving a
31 mandatory minimum sentence, an enhanced sentence, a sentence
32 which limits the person's parole eligibility, a class "A"
33 felony sentence, or a sentence under section 902.12, shall be
34 immediately eligible for a medical parole under the following
35 circumstances:

1 a. If the department of corrections makes a recommendation
2 to the board of parole with supporting medical evidence stating
3 any of the following:

4 (1) The person suffers from a chronic infirmity, physical
5 limitation, serious illness, or serious disease related to
6 aging.

7 (2) The person has an existing medical or physical condition
8 that is permanent and is physically or mentally incapacitating.

9 (3) The person is terminally ill.

10 b. After reviewing the recommendation, the board determines
11 all of the following:

12 (1) The person is eligible for medical parole under
13 paragraph "a".

14 (2) A reasonable probability exists that the person can be
15 released without detriment to the community or to the person.

16 2. Prior to making a determination under subsection 1, the
17 board may request that the department of corrections provide
18 additional medical evidence supporting the recommendation or
19 that a medical examination of the person be conducted.

20 3. If the board orders the person released on medical
21 parole, the department of corrections, in cooperation with the
22 board and the judicial district department of correctional
23 services, shall determine the level of appropriate supervision
24 of the person. In addition to any other terms and conditions
25 of medical parole, supervision of a person on medical parole
26 shall consist of periodic medical evaluations at intervals to
27 be determined by the board at the time of release.

28 4. After a person is released on medical parole, earned
29 time shall not reduce the remainder of the person's sentence
30 while the person is on medical parole. The term of parole for
31 a person on medical parole shall equal the remainder of the
32 sentence of the person.

33 5. If the board finds a change in circumstances or discovers
34 new information concerning a person who has been released on
35 medical parole, the board may rescind the medical parole or

1 revise the previously granted medical parole release date.

2 6. The board shall issue its decision to release a person on
3 medical parole or deny a person's medical parole or to rescind
4 the medical parole or revise the medical parole release date of
5 the person in writing and provide a basis for the decision. A
6 copy of the decision shall be provided to the person.

7 7. The board shall adopt rules pursuant to chapter 17A which
8 are necessary to carry out the provisions of this section.

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DIVISION II

10

CORRESPONDING AMENDMENTS

11 Sec. 3. Section 124.406, subsection 1, paragraph a, Code
12 2011, is amended to read as follows:

13 a. Unlawfully distributes or possesses with intent to
14 distribute a substance listed in schedule I or II to a person
15 under eighteen years of age commits a class "B" felony and
16 shall serve a minimum term of confinement of five years unless
17 medically paroled pursuant to section 906.20. However, if the
18 substance was distributed in or on, or within one thousand feet
19 of, the real property comprising a public or private elementary
20 or secondary school, public park, public swimming pool, public
21 recreation center, or on a marked school bus, the person
22 shall serve a minimum term of confinement of ten years unless
23 medically paroled pursuant to section 906.20.

24 Sec. 4. Section 124.406, subsection 2, paragraph a, Code
25 2011, is amended to read as follows:

26 a. Unlawfully distributes or possesses with the intent to
27 distribute a counterfeit substance listed in schedule I or
28 II, or a simulated controlled substance represented to be a
29 substance classified in schedule I or II, to a person under
30 eighteen years of age commits a class "B" felony. However, if
31 the substance was distributed in or on, or within one thousand
32 feet of, the real property comprising a public or private
33 elementary or secondary school, public park, public swimming
34 pool, public recreation center, or on a marked school bus, the
35 person shall serve a minimum term of confinement of ten years

1 unless medically paroled pursuant to section 906.20.

2 Sec. 5. Section 124.413, subsection 1, Code 2011, is amended
3 to read as follows:

4 1. A person sentenced pursuant to section 124.401,
5 subsection 1, paragraph "a", "b", "c", "e", or "f", shall not
6 be eligible for parole, unless medically paroled pursuant
7 to section 906.20, or until the person has served a minimum
8 period of confinement of one-third of the maximum indeterminate
9 sentence prescribed by law.

10 Sec. 6. Section 708.2A, subsection 6, paragraph b, Code
11 2011, is amended to read as follows:

12 b. A person convicted of violating subsection 4 shall be
13 sentenced as provided under section 902.9, subsection 5, and
14 shall be denied parole or work release, unless the person is
15 medically paroled pursuant to section 906.20, until the person
16 has served a minimum of one year of the person's sentence.
17 Notwithstanding section 901.5, subsections 1, 3, and 5 and
18 section 907.3, the person cannot receive a suspended or
19 deferred sentence or a deferred judgment; however, the person
20 sentenced shall receive credit for any time the person was
21 confined in a jail or detention facility following arrest.

22 Sec. 7. Section 901A.2, Code 2011, is amended by adding the
23 following new subsection:

24 NEW SUBSECTION. 9. A person sentenced under this section is
25 eligible for medical parole pursuant to section 906.20.

26 Sec. 8. Section 902.1, Code Supplement 2011, is amended by
27 adding the following new subsection:

28 NEW SUBSECTION. 3. Notwithstanding subsections 1 and 2,
29 a person sentenced under this section is eligible for medical
30 parole pursuant to section 906.20.

31 Sec. 9. Section 902.7, Code 2011, is amended to read as
32 follows:

33 **902.7 Minimum sentence — use of a dangerous weapon.**

34 At the trial of a person charged with participating in a
35 forcible felony, if the trier of fact finds beyond a reasonable

1 doubt that the person is guilty of a forcible felony and that
2 the person represented that the person was in the immediate
3 possession and control of a dangerous weapon, displayed a
4 dangerous weapon in a threatening manner, or was armed with a
5 dangerous weapon while participating in the forcible felony
6 the convicted person shall serve a minimum of five years of
7 the sentence imposed by law. A person sentenced pursuant to
8 this section shall not be eligible for parole, unless medically
9 paroled pursuant to section 906.20, or until the person has
10 served the minimum sentence of confinement imposed by this
11 section.

12 Sec. 10. Section 902.8, Code 2011, is amended to read as
13 follows:

14 **902.8 Minimum sentence — habitual offender.**

15 An habitual offender is any person convicted of a class "C"
16 or a class "D" felony, who has twice before been convicted of
17 any felony in a court of this or any other state, or of the
18 United States. An offense is a felony if, by the law under
19 which the person is convicted, it is so classified at the time
20 of the person's conviction. A person sentenced as an habitual
21 offender shall not be eligible for parole, unless medically
22 paroled pursuant to section 906.20, or until the person has
23 served the minimum sentence of confinement of three years.

24 Sec. 11. Section 902.8A, Code 2011, is amended to read as
25 follows:

26 **902.8A Minimum sentence for conspiring to manufacture, or**
27 **delivery of, amphetamine or methamphetamine to a minor.**

28 A person who has been convicted for a first violation under
29 section 124.401D shall not be eligible for parole, unless
30 medically paroled pursuant to section 906.20, or until the
31 person has served a minimum term of confinement of ten years.

32 Sec. 12. Section 902.11, unnumbered paragraph 1, Code 2011,
33 is amended to read as follows:

34 A person serving a sentence for conviction of a felony, who
35 has a criminal record of one or more prior convictions for a

1 forcible felony or a crime of a similar gravity in this or any
2 other state, shall be denied parole or work release, unless
3 medically paroled pursuant to section 906.20, or unless the
4 person has served at least one-half of the maximum term of the
5 defendant's sentence. However, the mandatory sentence provided
6 for by this section does not apply if either of the following
7 apply:

8 Sec. 13. Section 902.12, unnumbered paragraph 1, Code 2011,
9 is amended to read as follows:

10 A person serving a sentence for conviction of the following
11 felonies, including a person serving a sentence for conviction
12 of the following felonies prior to July 1, 2003, shall be
13 denied parole or work release unless the person has served at
14 least seven-tenths of the maximum term of the person's sentence
15 or the person has been medically paroled pursuant to section
16 906.20:

17 DIVISION III

18 EFFECTIVE DATE

19 Sec. 14. EFFECTIVE DATE. This Act takes effect January 1,
20 2013.

21 EXPLANATION

22 This bill relates to providing medical parole to a person
23 committed to the custody of the department of corrections.

24 DIVISION I. Under the bill, any person committed to the
25 custody of the department of corrections including offenders
26 serving a mandatory minimum sentence, an enhanced sentence,
27 a sentence which limits the person's parole eligibility,
28 a class "A" felony sentence, or a sentence under section
29 902.12, may be eligible for medical parole. The bill provides
30 that a person committed to the custody of the department of
31 corrections shall be immediately eligible for medical parole
32 under the following circumstances: (1) the person suffers from
33 a chronic infirmity, physical limitation, serious illness,
34 or serious disease related to aging; (2) the person has an
35 existing medical or physical condition which is permanent and

1 is physically or mentally incapacitating; or (3) the person is
2 terminally ill.

3 If the board of parole orders the person released on medical
4 parole, the department of corrections in cooperation with the
5 board and the judicial district department of correctional
6 services shall determine the level of appropriate supervision
7 of the person. In addition to any other terms and conditions
8 of supervision, a person on medical parole shall have periodic
9 medical evaluations at intervals to be determined by the board
10 of parole at the time of release.

11 The bill also provides that if the board of parole finds a
12 change in circumstances or discovers new information concerning
13 a person who has been released on medical parole, the board may
14 rescind the medical parole or revise the previously granted
15 parole release date.

16 If a person is released on medical parole pursuant to the
17 bill and applies for public assistance, including medical
18 assistance, the department of corrections shall forward
19 the application for assistance to the department of human
20 services, and advise the board of parole that an application
21 for assistance has been made.

22 The bill provides that the department of human services
23 shall, within 60 days of receipt of a medical parolee's
24 application for assistance, determine the eligibility of the
25 person for general assistance, public assistance, medical
26 assistance, or any type of assistance.

27 The bill also provides that the department of human services
28 is responsible for the administrative costs of the initial and
29 any subsequent eligibility determination and for the costs of
30 any public assistance, including medical assistance, following
31 a person's release on medical parole for as long as the person
32 is eligible.

33 DIVISION II. The bill amends various Code sections to
34 conform with the changes in division I.

35 DIVISION III. The bill takes effect January 1, 2013.